

Before the Board of Zoning Adjustment, D. C.

PUBLIC HEARING -- November 29, 1972

Application No. 11103 Oswald & Tommie Barham, appellant

THE ZONING ADMINISTRATOR OF THE DISTRICT OF COLUMBIA, appellee

On motion duly made, seconded and carried by a vote of 4-0, the following Order of the Board was entered at the meeting of January 23, 1973.

EFFECTIVE DATE OF ORDER -- March 26, 1973

ORDERED:

That the application to permit the continuation of a flat at 6600 Piney Branch Road, N. W., Lot 1, Square S-2971, either as a use variance or as a continuation of a nonconforming use be GRANTED.

FINDING OF FACT:

1. Subject property is located in an R-1-B district which is defined by the zoning regulations as area of one family detached dwellings of low density.

2. The present use of this facility is for two family flat; which the applicant states has existed since its construction in 1926 or 1927.

3. Applicant submits that research into the city directories have indicated that in 1927 the premises was occupied by at least two families. Further, applicant has obtained from neighborhood residents affidavits as to the use of the subject property which tends to establish the long continued two-family flat use.

4. It is the applicant's testimony that to convert the property into a single family dwelling would cost approximately \$5,000.00 and would result in physical and financial hardship that the applicant would be unable to meet.

5. Attached to the file is a floor plan layout of the property indicating a complete living unit on each floor; the building has separate entrances separate addresses and each floor has its own amenities: bathroom, kitchen, living room and bedrooms.

Application No. 11103

March 26, 1973

Page 2

6. It is the applicant-owner's testimony that it was his reliance upon the continuing existence of the structure as a two-family flat, that served as the impetus for his subsequent purchase of the building.

7. This application represents a rehearing; the prior hearing by the applicant terminated in a denial dated August 9, 1972. In that application a variance from the use provisions of #8207.11 was sought.

8. No opposition was voiced at the public hearing nor were any letters in opposition submitted to file for the Board's consideration.

OPINION:

The Board is of the opinion that sufficient evidence has been presented by the applicant to merit the granting of this application. We are especially hesitant to permit any non-conforming structures to exist in a purely residential area where single family dwellings are to be fostered and protected. However, we are now convinced that a hardship would be worked upon the owners if they were obliged to convert the building into a single family dwelling, both financially and physically. We are of the opinion that indeed under the strict application of the regulations to put this structure to a use for which it is reasonably adapted a fair and reasonable return arising out of applicant's ownership cannot be enjoyed. Thus, we grant relief from the regulations.

We are of the opinion that appellant has proved a hardship within the meaning of the variance clause of the Zoning Regulations and that a denial of the requested relief will result in peculiar and exceptional practical difficulties and undue hardship upon the owner.

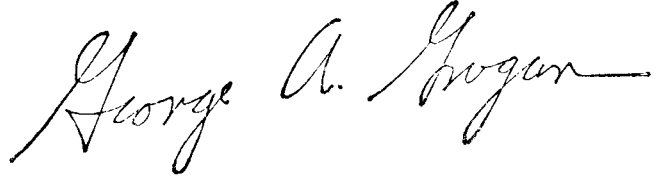
Further, we hold that the requested relief cannot be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Application No. 11103
March 26, 1973
Page 3

BY THE ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED

BY:

A handwritten signature in cursive script, reading "George A. Grogan", written in dark ink.

GEORGE A. GROGAN
Secretary of the Board

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF ECONOMIC DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS FILE ORDER.

Before the Board of Zoning Adjustment, D. C.

PUBLIC HEARING -- July 19, 1972

Application No. 11103 Oswald J. and Tommie Barham, appellants

THE ZONING ADMINISTRATOR OF THE DISTRICT OF COLUMBIA, appellee

On motion duly made, seconded and carried with Mr. McIntosh dissenting, the following Order of the Board was entered at the meeting of July 25, 1972.

ORDERED:

That the application for a variance from the use provisions of R-1-B District to continue use as a flat at 6600 Piney Branch Road, N.W., lot 1, Square S-2971 be DENIED.

FINDINGS OF FACT:

1. The subject property is located in an R-1-B District.
 2. The property is presently improved with a two-story frame dwelling.
 3. Appellants request a variance from the use provisions of the R-1-B District to continue use as a flat.
 4. The appellants stated that the subject property has two separate entrances and two separate addresses. One of the addresses is in 851 Van Buren Street, N. W., where he lives, and the other is 6600 Piney Branch Road, N. W. which is occupied by another family.
 5. The appellant submitted photographs showing the property has separate entrances, separate addresses, and each floor has its own amenities: bathroom, kitchen, living room, and bedrooms.
 6. The appellant stated that he bought the subject property from a real estate agent and it was represented to him as being a two-family flat.
 7. The appellant stated that to deny his application would create a hardship, not only for him, but for the family who has lived there on the second floor for more than two years. It was on the basis of a two-family flat with one of the units rented out that he went into the operation.
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8. Prior to the executive meeting, the appellant submitted a statement from the real estate agent to whom care of the property was entrusted and who negotiated the sale that the building was designed and built as a two-family flat.

9. No opposition was registered at the public hearing as to the granting of this application. However, there is a letter on file from Mr. and Mrs. George H. Saunders objecting to the granting of this application based on the disturbance of the peace and tranquility of the neighborhood.

OPINION:

The Board is of the opinion that no convincing evidence was submitted showing that the subject property was always used as a two-family flat. The photographs, along with statement of record, would tend to indicate that the conversion of the property into a two-family flat was done subsequent to the building of the subject property. It is therefore our opinion that this application by appellant should be denied.

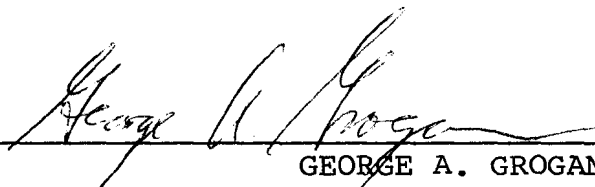
We are of the opinion that appellant has not proved a hardship within the meaning of the variance clause of the Zoning Regulations, and that a denial of the requested relief will not result in peculiar and exceptional practical difficulties and undue hardship upon the owner.

Further, we hold that the requested relief can not be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED

By:



GEORGE A. GROGAN
Secretary of the Board